

### **REMARKS**

The Official Action dated December 19, 2003 has been carefully considered. First, Applicants acknowledge and appreciate the Examiner's indication that claims 1-6 are allowable and that claims 11-14 contain allowable subject matter.

Claim 8 was amended to more clearly define the invention. In addition, the limitation of claim 11 was incorporated into claim 8 and claim 11 was cancelled. Additional support for this amendment is found in the specification at page 9, paragraph 3. Claims 12 and 13 were amended to change their dependency. Claim 15 was amended to more clearly define the invention, and to incorporate subject matter from claims 17 and 18. Additional support for this amendment is found in the specification at page 8, paragraph 4. Support for the subject matter of new claims 19 and 20, which depend from claim 8, is found in the specification at page 9, paragraphs 2 and 3. Claim 16 has been amended to clarify that the device for orienting the at least one shoe is a flexible containment bag. Support for this amendment is found throughout the disclosure, and specifically at page 5, paragraph 3. Accordingly, the changes presented herewith, taken with the following remarks, are believed sufficient to place the present application in condition for allowance. It is believed that these changes do not involve any introduction of new matter, whereby entry is believed to be in order and is respectfully requested. Claims 1-6, 8-10, and 12-20 are currently pending.

As the allowable subject matter of claim 11 has been incorporated into base claim 8, it is submitted that claim 8, and claims 9, 10, 12 and 14 dependent therefrom are allowable. Reconsideration is respectfully requested. The Office Action indicates that claims 11-14 are objected to (see Office Action summary, line 7).

### **35 U.S.C. § 102**

Claims 8, 9, 10, 15, 17 and 18 were rejected under 35 U.S.C. §102(e) as being clearly anticipated by either Japanese Patent No. 2000-167287 or Japanese Patent No. 2000-229197.

Specifically, the Examiner asserts that Japan '197 and Japan '287 disclose a flexible washing machine bag comprising at least one web of material that is arranged in two opposed portions joined together to form several pockets. The Examiner further asserts that the bodies of instant claims 8 and 15 do not "breath life" into the claims' preambles, which recite an intended use of orienting shoes in a washing machine, so that the preamble has not been given the weight of a limitation. This rejection is traversed and reconsideration is respectfully requested.

Instant independent claim 8 is directed to a flexible bag adapted for maintaining shoes in a desired orientation in a washing machine. The flexible bag comprises at least one web of material that is arranged to have two opposed portions wherein said opposed portions are joined together to form several pockets. The pockets are defined by side walls, a closed bottom, ends, and provide at least two openings adapted for inserting shoes. The flexible bag further comprises at least one component joined thereto and adapted to retain the pockets in a particular relationship.

Instant independent claim 15 is directed to a flexible bag structure having at least two pockets adapted for holding shoes in a washing machine. At least two of the pockets are joined to each other directly or indirectly and each pocket includes a retaining means for retaining a shoe in a desired orientation therein.

Japan '287, on the other hand, is directed to a washing bag having two compartments disposed directly parallel to one another and sharing a center fabric as one wall. The two bag parts are taught to have openings which may be freely opened and closed by suitable hooks. '287 fails to teach a flexible bag adapted for maintaining shoes in a desired orientation during the wash process as required by claim 8, and fails to teach a component joined to the bag which retains the pockets in a particular relationship, as further required by claim 8. The contents of the '287 bags are free to move unobstructed about the compartments, and the

pockets are held rigidly in an array on the '287 bags, they are not joined together by an additional component of the bags as required by instant claim 8. Clearly, the claimed component is adapted to retain the pockets in a desired relationship, and to release the pockets from that relationship. The present specification teaches the importance of this feature to the functioning of the present flexible bags, noting that a determinable orientation allows the amount of rinse water forced into the shoe during the rinse cycle to be reduced.

Further, the compartments or pockets of the present inventive bags embodied by instant claim 8 are formed from joining opposing portions of the web material, which inherently results in non-overlapping pockets arranged sequentially to one another. The pockets of '287 are necessarily configured so that they are parallel since they are disclosed to share a wall comprised of the center fabric. Hence, the pockets are not capable of being arranged and retained in any particular relationship, but are always held rigidly in the conjoined, parallel relationship. Clearly, the '287 bags could not be arranged around a washing machine agitator such that the pockets oppose one another.

Further, the washing bags of '287 do not include a retaining means for retaining a shoe in a desired orientation therein, as required by instant claim 15. This retaining means is discussed in the instant specification at page 8, inter alia. Clearly this is not the same as a closure means, and is intended as a separate means located within the pocket to retain the shoe so that it maintains the desired orientation. A pocket may be closable without functioning to maintain a desired orientation of its contents.

Japan '197 is directed to washing bags comprised of water-permeable mesh nets with a portion of their peripheries sewn together in such a way that an opening remains. The '197 bag has two pockets made of netlike cloths on its outer surface, with the openings of the pockets facing opposite to the opening of the bag such that when the bag is turned inside out, the pocket openings face down and the bag may be closed with a single closing means at the

mouth of the bag. The openings to the pockets are elastically contractable such that the contents will remain in the pocket, within the bag, during operation.

'197 clearly fails to teach all the material limitations of claims 8 and 15. With respect to claim 8, '197 fails to teach pockets providing at least two openings, and fails to teach a web of material having two opposing portions joined together to form several pockets. The pockets of '197 are not formed from joining together opposing portions of any material, but are attached additional mesh material overlayed separately onto both sides of a two-layered central bag, sewn together only at the periphery so that the bag as a whole may be turned inside-out. In addition, '197 fails to teach a component which is adapted to maintain the pockets in a particular relationship. During operation, the '197 bag is configured such that the pockets are always facing one another in the interior of the central bag turned inside out. Further, while the entire structure may be placed as a single unit into a washing machine, it cannot possibly be configured to retain the pockets in a desired orientation.

With respect to instant independent claim 15, '197 fails to include a retaining means for retaining a shoe in a desired orientation. In fact, the contents of the pockets within the '197 bag are not retained by any means other than the pocket and bag closures, and are free to re-orient during wash agitation. In addition, the bag itself would also be expected to freely move about the washing machine during agitation, since it is merely placed within the machine and not capable of being retained in a desired orientation. Applicants point out that one of the purposes presently taught for being able to configure the present flexible bags so that they are disposable about the agitator during washing is to maintain the shoe compartments, and shoes, in the desired relationship with respect to the water flow during agitation (page 9-10).

The teachings of '287 and/or '197 simply do not address the presently addressed concerns and do not place the instant invention, as defined by claims 8 and 15, in the

possession of the ordinary person in the laundry arts seeking to wash shoes in a washing machine such that the shoes are maintained in a desirable orientation, i.e. maintained to reduce water contained within the washed shoe and therefore reduce drying time.

Anticipation under 35 U.S.C. §102 requires that each and every element as set forth in the claims is found, either expressly or inherently described, in a single prior art reference, *In re Robertson*, 49 U.S.P.Q.2d 1949, 1950 (Fed. Cir. 1999). The corollary of the rule is that absence from the reference of any claimed element negates anticipation. *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986). "It is well settled that prior art under 35 U.S.C. § 102(b) must sufficiently describe the claimed invention to have placed the public in possession of it." *Elan Pharmaceuticals Inc. v. Mayo Foundation for Medical Education and Research*, 68 USPQ2d 1373 (Fed. Cir. 2003). As discussed above, the Japanese patents '287 and/or '197 do not teach all the limitations of either instant claim 8 or 15, and fail to sufficiently describe the present inventive flexible bags to place the public in possession of them. Hence, the rejection of independent claim 8 and dependent claims 9 and 10 depending therefrom, and the rejection of independent claim 15 and dependent claims 17 and 18 depending therefrom, under 35 U.S.C. §102 has been overcome. Reconsideration is respectfully requested.

Claims 8, 9, 10, 15, 17, and 18 were further rejected under 35 U.S.C. §102(e) as being anticipated by "either" U.S. patent No. 5,803,605 to Masi ("Masi"), or U.S. Patent Design Patent No. D294,757 to Kahane et al. ("Kahane"). No specific grounds are given other than a general reference to MPEP 2111.02, which the Examiner asserts is relevant because the body of the claims fails to breath life and meaning into the claim's intended use/preamble of orienting shoes in a washing machine, and therefore the preamble was not assigned weight as a limitation. This rejection is traversed and reconsideration is respectfully requested.

Present independent claim 8, as described fully above, is directed to a flexible bag adapted for maintaining shoes in a desired orientation in a washing machine. The body of the claim clearly relates to the required characteristic recited in the preamble, that the bag is adapted to maintain shoes in a desired orientation in a washing machine, as all the limitations are specifically tailored as adaptations for specifically orienting shoes.

Present independent claim 15, also fully described above, is directed to a flexible bag structure having at least two pockets adapted for holding shoes in a washing machine. At least two of the pockets are joined to each other directly or indirectly and each pocket includes a retaining means adapted for retaining a shoe in a desired orientation therein.

Neither Kahane nor Masi teach flexible bags adapted for maintaining shoes in a desired orientation in a washing machine, as required by instant claim 8. Kahane is a design patent which illustrates bags having seven pockets in a rigidly held fixed array, with the pocketed portion attached to an outside façade of an inner rectangular compartment which is neither flexible as a whole, nor adapted for holding shoes. Kahane notes that this bag is for "washing selected clothing", and depicts pockets comprised of apparently of a mesh-like material, but does not teach that the structure comprising the pocketed array is flexible. Further, Kahane does not teach flexible bags with a component for retaining the pockets in a particular relationship, and releasing them therefrom, as further required by instant claim 8. In fact, the pockets of Kahane are held in a rigid array and cannot be moved or placed into any other relationship relative to one another. The pockets themselves are not taught to be adapted for holding shoes, and are not taught to be adapted for maintaining shoes in a particular orientation within a washing machine.

Further, the pockets of the Kahane bags do not include a retaining means for holding a shoe, or any other contents, in a desired orientation, as required by claim 15. The contents of the Kahane pockets are free to move about during the spinning and agitation cycles of a

washing machine, and therefore do not provide the benefit of the instant inventive bags as defined by claims 8 and 15, which retain the shoes in a desired orientation to reduce the collection of water in the shoe during wash rinse, agitation, and spin cycles.

Masi teaches "a bag for rapid washing and drying of small articles consisting of a main pocket and multiple small, individual pockets." Though the individual pockets are taught to be comprised of flexible material themselves (column 2, lines 23-25), the pockets of Masi are disposed in a fixed array on either side of an interior bag structure, which is not itself taught to be comprised of flexible material. In fact, it is taught as important to the proper functioning of the Masi bag that the pockets do not overlap or otherwise exist in positions such that the mesh portions are adjacent to one another and the flow of water through one mesh pocket is impacted by the flow through another. Such a restriction on the flexibility of the pocket positions would require that the pockets be held rigidly on an inner compartment which does not significantly bend or yield. In fact, Masi teaches the compartmentalized bags as suitable for display, storage and travel, functions which suggest non-flexible inner bags, in direct contrast to the present inventive bags which are necessarily flexible.

Masi fails to teach flexible bags having a component joined thereto for retaining the pockets in particular relationships, and for releasing them therefrom, as required by instant claim 8. The pockets on the bags of Masi are rigidly held in a particular array which cannot be altered. Masi fails to teach bags with pockets including a retaining means for retaining a shoe, or any item, in a desired orientation therein. As with the Kahane pocketed bags, the movement of the Masi pocket contents is confined only by the pocket dimensions, and there is no separate means to maintain the contents in any desired orientation, as required by instant claim 15. The Masi bag itself remains free to change orientations within the wash tub, as the pockets are not retainable in a way that allows them to be disposed about the washing

machine agitator, as are the pockets in the embodiment of the present invention depicted by instant claim 15.

Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *In re Paulson*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed.Cir. 1994). The corollary of the rule is that absence from the reference of any claimed element negates anticipation. *Kloster Speedsteel*, 793 F.2d at 1565. Neither Kahane nor Masi teach flexible bags adapted for maintaining shoes in a desired orientation in a washing machine, and neither teach a component joined to the web adapted to retain the pockets in a particular relationship or releasing them therefrom. Further, neither Kahane nor Masi teach flexible bag structures wherein, inter alia, each pocket of the bag includes a retaining means for retaining a shoe in a desired orientation therein. Hence, neither Kahane nor Masi anticipate either of present independent claims 8 or 15. The rejection of claims 8, 9, 10, 15, 17 and 18 under 35 U.S.C. § 102(e) therefore has been overcome and reconsideration is respectfully requested.

Claim 16 was rejected under 35 U.S.C. 102(e) as being clearly anticipated by a Japanese Patent No. 2000-23897 (Japan '897). Specifically, the Examiner asserts that Japan '897 discloses a method of cleaning shoes in a vertical axis washing machine comprising providing a washing machine having a vertical axis tub, providing at least one shoe having (A) [sic], providing a device (20) for orienting the at least one shoe in the tub which maintains the shoe in a particular orientation throughout the washing process, positioning the device in the tub, placing the shoe in the device and operating the washing machine.

Present Independent claim 16 is directed to a method of cleaning shoes in a vertical axis washing machine. The method comprises the steps of: (a) providing a washing machine having a vertical axis tub; (b) providing at least one shoe having a sole; (c) providing a device for orienting said at least one shoe in the tub of said washing machine, which



maintains said at least one shoe in a particular orientation throughout the washing process; (d) positioning said device in the tub of said washing machine; (e) placing said at least one shoe in said device; and (f) operating said washing machine through a washing process, wherein the device for orienting said at least one shoe is a flexible containment bag.

Japan '897, on the other hand, discloses a machine specially-designed for washing shoes. This shoe-washer utilizes a "shoe hanger," depicted in the '897 drawing at (20), which is taught to hold the shoe inside the washing tank. Japan '897 fails to teach or disclose a flexible containment bag as the device which orients the shoe in the washing machine, as required by instant independent claim 16.

Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *In re Paulson*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed.Cir. 1994). The corollary of the rule is that absence from the reference of any claimed element negates anticipation. *Kloster Speedsteel*, 793 F.2d at 1565. Japan '897 fails to teach the flexible containment bags of independent claim 16 and therefore fails to anticipate it. The rejection of claim 16 under 35 U.S.C. § 102(e) has been overcome and reconsideration is respectfully requested.

Claim 16 was further rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,435,964 to Misawa (Misawa). Specifically, the Examiner asserts that Misawa discloses a method of cleaning shoes in a vertical axis washing machine comprising providing a washing machine having a vertical axis tub (12), providing at least one shoe (50), providing at least one device (31) for orienting the shoe in the tub, which maintains the shoe in a particular orientation throughout the washing process, positioning the device in the tub, placing the shoe in the device and operating the washing machine.

Instant independent claim 16, as fully detailed above, is directed to a method of cleaning shoes in a vertical axis washing machine. The method comprises the steps of: (a)

providing a washing machine having a vertical axis tub; (b) providing at least one shoe having a sole; (c) providing a device for orienting said at least one shoe in the tub of said washing machine, which maintains said at least one shoe in a particular orientation throughout the washing process; (d) positioning said device in the tub of said washing machine; (e) placing said at least one shoe in said device; and (f) operating said washing machine through a washing process, wherein the device for orienting said at least one shoe is a flexible containment bag.

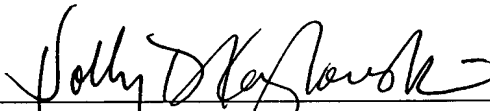
Misawa, on the other hand, discloses and claims washing machines for shoes limited to those with a water tub incorporating a dehydrating tub provided with brushing sections. The brushing sections are rigid and arranged in a line and are provided with inner brushes onto which the shoes are mounted (column 1, lines 42-46). The disclosure at column 4, lines 57-64 describe the mounting of the shoe on the inner brushes. It is clear from this description that the Misawa device which orients the shoes in the Misawa shoe washer, is not the flexible containment bag device instantly claimed, and does not function similarly to the instant flexible containment bags. In fact, use the present device in Misawa would preclude the proper operation of the Misawa shoe washer, since neither the mounting brushes nor the opposing outer brushes required by Misawa could come in unobstructed contact with the shoe being washed, as disclosed in the Misawa methods. All the devices disclosed by Misawa to operate as devices to orient shoes in the shoe washer are similarly inserted into the shoes to be washed (column 10, lines 46-51, and independent claim 1, (f)), a method step which would be impossible utilizing the presently disclosed flexible containment bags as required by instant claim 16.

Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *In re Paulson*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed.Cir. 1994). The corollary of the rule is that absence from the reference of any claimed

element negates anticipation. *Kloster Speedsteel*, 793 F.2d at 1565. Misawa fails to teach the flexible containment bags as devices for orienting the shoes in a washing machine as required by instant claim 16. Hence, the rejection of claim 16 under 35 U.S.C. § 102(b) is overcome and reconsideration is respectfully requested.

It is believed that the above represents a complete response to the objections and rejections under 35 U.S.C. §102 in the Office Action dated December 19, 2003 and places the present application in condition for allowance. Reconsideration and an early allowance are requested.

Respectfully submitted,

By:   
Denise M. Everett, Reg. No. 47,552  
Holly D. Kozlowski, Reg. No. 30,468  
Attorney for Applicants  
DINSMORE & SHOHL, LLP  
1900 Chemed Center  
255 East Fifth Street  
Cincinnati, Ohio 45202  
(513) 977-8787